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BEFORE THE ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission

DOCKETED

MAY 04 2001

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WILLIAM A. MUNDELL  
Chairman  
JIM IRVIN  
Commissioner  
MARC SPITZER  
Commissioner

IN THE MATTER OF FORTY NINER WATER )  
COMPANY - FILING FOR A CURTAILMENT )  
PLAN TARIFF FOR ITS SYSTEM )

DOCKET NO. W-01777A-01-0315

DECISION NO. 63659

ORDER

Open Meeting  
May 1 and 2, 2001  
Phoenix, Arizona

BY THE COMMISSION:

FINDINGS OF FACT

1. On April 16, 2001, Forty Niner Water Company ("Forty Niner" or "Company") filed an application with the Commission requesting approval of a curtailment plan.
2. Forty Niner is a public service corporation which provides water utility service to the public in a portion of Pinal County, Arizona.
3. Forty Niner has five wells and serves 375 customers in the far east side of Tucson, Arizona.
4. Due to the dry winters over the past few years in the Tucson area, Forty Niner has experienced difficulty in keeping up with customer demand.
5. This supply shortage has been lessened by connecting to the City of Tucson water system. However, the City's commercial rate is far above the Company's tariff rate.
6. Forty Niner is concerned the system will continue to experience water shortage problems with no emergency recourse available to the Company if a curtailment plan is not put into place.
7. Forty Niner has requested that customers voluntarily conserve water on two occasions, but this only works for a short period of time and then usage goes back up.
8. If a curtailment plan was in place, Forty Niner would have the ability to impose water use restrictions in a manner approved by the Commission.

9. The curtailment tariff being proposed by Forty Niner would work in stages as follows:

Stage 1 Exists When:

- a. The Company is able to maintain water storage in the system at 100 percent of capacity and there are no known problems with its well production or water storage in the system.

Restrictions: Under Stage 1, the Company is deemed to be operating normally and no curtailment restrictions are necessary.

Notice Requirements: Under Stage 1, no notice is necessary.

Stage 2 Exists When:

- a. The Company's total storage and well production has been less than 80 percent of capacity for at least 48 consecutive hours, and
- b. The Company has identified issues such as steadily declining water table, an increased draw-down threatening pump operations, and poor water production creating a reasonable belief the Company will be able to meet anticipated water demands in the system.

Restrictions: Under Stage 2, the Company may request the customers to voluntarily employ water conservation measures to reduce water consumption by approximately 50 percent. Outside watering should be limited to essential water, dividing outside watering on some uniform basis (such as even and odd days) and eliminating outside watering on weekends and holidays.

Notice Requirements: Under Stage 2, the Company is required to notify customers by delivering written notice door to door at each service address, or by United States first class mail to the billing address or, at the Company's option, both. Such Notice shall notify the customers of the general nature of the problem and the need to conserve water.

Stage 3 Exists When:

- a. The Company's total storage and well production has been less than 50 percent for at least 24 consecutive hours. The Company has identified issues such as a steadily declining water table, and increased draw down threatening pump operations creating a reasonable belief the Company will be unable to meet anticipated water demand on a sustained basis. The Company must rely on an emergency connection with the City of Tucson to augment the minimum needs of the customers. (The additional costs of the emergency supply will be passed through to the customer.)

Restrictions: Under Stage 3, the Company shall request the customers to voluntarily employ water conservation measures to reduce daily consumption by approximately 50

percent. All outside water should be eliminated, except livestock, and indoor water conservation techniques should be employed wherever possible.

Notice Requirements:

- a. The Company is required to notify customers by delivering written notice to each service address, or by United States first class mail to the billing address or, at the Company's option, both. Such Notice shall notify the customers of the general nature of the problem and the need to conserve water.
- b. Beginning with Stage 3, the Company shall post at least two signs showing curtailment stage. Signs shall be posted at the well site and at the entrance to the major subdivision served by the Company.
- c. The Company shall notify the Consumer Services Unit of the Utilities Division of the Commission at least 12 hours prior to entering Stage 3.

Stage 4 Exists When:

- a. The Company's total storage has been less than 25 percent for at least 12 consecutive hours. The Company has identified issues such as a steadily declining water table, and increased draw down threatening pump operations creating a reasonable belief the Company will be unable to meet anticipated water demand on a sustained basis. The Company must rely on an emergency connection with the City of Tucson to augment the minimum needs of the customers. (The additional costs of the emergency supply will be passed through to the customer.)

Restrictions: Under Stage 4, the Company shall inform the customers of a mandatory restriction to employ water conservation measures to reduce daily consumption. All outside watering should be eliminated, except livestock, and indoor water conservation techniques should be employed wherever possible. Failure to comply will result in temporary disconnection.

Notice Requirements:

- a. The Company is required to notify customers by delivering written notice to each service address, or by United States first class mail to the billing address or, at the Company's option, both. Such Notice shall notify the customers of the general nature of the problem and the need to conserve water.
- b. The Company shall have posted at least two signs showing curtailment stage. Signs shall be posted at the well site and at the entrance to the major subdivision served by the Company.
- c. The Company shall notify the Consumer Services Unit of the Utilities Division of the Commission at least 12 hours prior to entering Stage 4.

d. Customers who fail to comply with cessation of outdoor use provisions will be given a written notice to end all outside use. Failure to comply within two (2) working days of receipt of the notice will result in temporary loss of service until an agreement can be made to end unauthorized use of outside water. To restore service, the customer shall be required to pay all authorized reconnection fees.

10. Staff agrees with Forty Niner that it needs this curtailment mechanism in place and finds it to be in the public interest.

11. Therefore, Staff recommends approval of the curtailment plan as filed by Forty Niner with one modification. That modification would remove the parenthetical phrase dealing with the pass-through of costs in Stages 3 and 4.

12. Staff further recommends that this curtailment procedure become part of Forty Niner's Arizona Department of Environmental Quality Emergency Operations Plan.

13. Staff further recommends that during the period when these water usage restrictions are effective, Forty Niner's tariffed reconnection rate shall apply to any service terminated for failure to comply with the curtailment conditions during Stage 4.

14. Staff further recommends that Forty Niner file with the Utilities Division Compliance Section a copy of the curtail tariff as approved by the Commission within thirty (30) days of the effective date of the Commission's decision in this matter.

15. Staff further recommends that the curtailment tariff not become effective until the final tariff is filed with the Compliance Section and verified for accuracy by the Compliance Section.

#### CONCLUSIONS OF LAW

1. Forty Niner Water Company is a public service corporation within the meaning of Article XV, Section 2, of the Arizona Constitution.

2. The Commission has jurisdiction over Forty Niner and of the subject matter of the application.

3. The Commission, having reviewed the application and Staff's Memorandum dated April 18, 2001, concludes that it is in the public interest to approve the curtailment plan tariff.

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ORDER

THEREFORE, IT IS ORDERED that Forty Niner Water Company be authorized to implement its proposed curtailment plan tariff as modified in Findings of Fact No. 11.

IT IS FURTHER ORDERED that during the period when these water usage restrictions are effective, Forty Niner Water Company's tariffed reconnection rate shall apply to any service terminated for failure to comply with the curtailment conditions during Stage 4.

IT IS FURTHER ORDERED that Forty Niner Water Company shall file with the Utilities Division Compliance Section a copy of the curtailment tariff as approved the Commission within 30 days of the effective date of the Commission's decision in this matter.

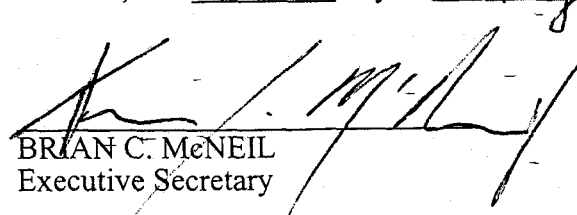
IT IS FURTHER ORDERED that this curtailment tariff not become effective until the final tariff is filed with the Compliance Section and verified for accuracy by the Compliance Section.

IT IS FURTHER ORDERED that Forty Niner Water Company shall not implement its curtailment plan tariff until all current customers of Forty Niner have been given notice of this tariff.

IT IS FURTHER ORDERED that this Decision become effective immediately.

**BY ORDER OF THE ARIZONA CORPORATION COMMISSION**  
CHAIRMAN  
COMMISSIONER  
COMMISSIONER

IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive Secretary of the Arizona Corporation Commission, have hereunto, set my hand and caused the official seal of this Commission to be affixed at the Capitol, in the City of Phoenix, this 4th day of May, 2001.

  
BRIAN C. McNEIL  
Executive Secretary

DISSENT: \_\_\_\_\_

DRS:RSK:lhbm

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